**THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY**

**AND**

**THE HON'BLE Mr. JUSTICE C.V. RAMULU**

**W.P. No.390 of 2002**

**DATE: 26-09-2005**

Between:

M/s. Mallikarjuna Traders

Rep. by its Proprietor

Sri Mallela Pedda Subba Reddy,

Bethamcherla, Kurnool District. .. Petitioner

**AND**

The Commercial Tax Officer-III,

Kurnool, Andhra Pradesh. .. Respondents

**THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY**

**AND**

**THE HON'BLE Mr. JUSTICE C.V. RAMULU**

**W.P. No.390 OF 2002**

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**ORDER:** (Per Hon'ble Mr. Justice B. Sudershan Reddy)

The subject matter that arises for our consideration in this writ petition is not *res integra* but squarely covered by the decision rendered by this Court in ***Richardson Cruddas Ltd. V. C.T.O., Gajuwaka, Visakhapatnam*****,** wherein this Court took the view that under Section 33-F of the Andhra Pradesh General Sales Tax Act 1957 (for short 'the Act'),
the assessing authority shall refund the excess tax resulting from an order passed in appeal; if such refund is not granted within the period of six months as contemplated under Section 33-F of the Act, it becomes imperative for the assessing authority to pay interest at the rate of 12% per annum on the amount of refund due from the date immediately following the expiry of six months. Under no circumstances, the authorities are entitled to withhold the interest on such refund amount.

In the instant case, the first appellate authority passed orders on 03-05-1997 under which the petitioner is entitled to payment of Rs.6,69,292/- and that order has become final. The competent authority issued the consequential proceeding for refunding the said amount to the petitioner on
05-03-1998 but the actual amounts were paid and refunded to the petitioner only on 25-02-1999. It is clear that the petitioner is entitled to payment of interest at the rate of
12% per annum as provided for under Section 33-F of the Act with effect from 03-11-1997 to 25-02-1999. The petitioner, in law, is entitled to the said amount from the date immediately following the expiry of six months, which in the instant case commences from 03-11-1997. There shall be an order accordingly.

The interest at the rate of 12% per annum from
03-11-1997 to 25-02-1999 shall be paid to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

The Writ Petition is accordingly allowed without any order as to costs.

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B. SUDERSHAN REDDY, J

Date:26-09-2005.

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C.V. RAMULU, J

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